

Magistrate ^{Judge} Mary Alice Theiler

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09-MJ-00587-CMP

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOHN LOREN BERARD,

Defendant.

CASE NO. **11J09-587**

COMPLAINT for VIOLATION

Title 21, U.S.C.
Sections 841(a), 841(b)(1)(B), and 846

BEFORE, MARY ALICE THEILER, United States Magistrate Judge, U. S. Courthouse,
Seattle, Washington.

The undersigned complainant, Special Agent G. Matthew Kenyon, being duly sworn
states:

COUNT ONE
(Conspiracy to Distribute Marijuana)

Beginning at a time unknown, but within the past five years, and continuing until
on or about December 4, 2009, in King County, within the Western District of
Washington, and elsewhere, JOHN LOREN BERARD, and others known and unknown,
knowingly and intentionally conspired to distribute marijuana, a substance controlled
under Schedule I, Title 21, United States Code, Section 812.

It is further alleged that this offense involved 100 kilograms or more of a mixture
or substance containing a detectable amount of marijuana.

1 All in violation of Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(B),
2 and 846.

3 **Facts in Support of Complaint**

4 I, G. Matthew Kenyon, being duly sworn, depose and say:

5 **BACKGROUND**

6 1. I am a Special Agent with the Federal Bureau of Investigation. I have been
7 employed with the FBI since July 2003 and am currently assigned to the Criminal
8 Enterprise Squad of the FBI in Kansas City, Missouri. During my tenure with the FBI, I
9 have served as both an Intelligence Analyst and a Special Agent. While working as an
10 Intelligence Analyst, I was assigned to the American Criminal Enterprise, Violent Crimes
11 Intelligence Unit at FBI Headquarters in Washington, DC where I was responsible for
12 intelligence information concerning Mexican drug trafficking organizations and their
13 interaction with US-based drug trafficking groups. In connection with my current official
14 duties, I investigate criminal violations of the Controlled Substance Act as found in
15 Titles 18 and 21 of the United States Codes. I have been working an investigation
16 targeting a drug distribution organization connected with gang members and associates,
17 the facts of which are set forth in this affidavit.

18 **FEDERAL OFFENSES**

19 2. I believe that the information set forth below establishes probable cause to
20 believe that JOHN LOREN BERARD has committed federal criminal violations,
21 specifically conspiracy to distribute marijuana, in violation of Title 21, United States
22 Code, Sections 841(a)(1), 841(b)(1)(B) and 846.

23 **FACTS**

24 3. Based on my personal experience in this investigation and my review and
25 analysis of reports provided to me by other FBI Special Agents, as well as officers and
26 detectives of the Kansas City, Missouri, Police Department, and on the basis of other
27 reliable information I have received, I am familiar with the facts of the investigation. On
28 the basis of this familiarity, I allege the facts in this affidavit provide evidence indicating

violations of Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(B) and 846, exist at the aforementioned property.

CONFIDENTIAL SOURCE (CS1)

4. In October 2009 a confidential source, hereinafter referred to as "CS1," voluntarily approached the FBI and indicated he/she wanted to provide information regarding gang membership and a marijuana distribution network in Kansas City, Missouri. Other than a misdemeanor marijuana possession arrest in 2002, CS1 has no criminal history. Furthermore, there were no known investigations targeting CS1 before or at the time he/she approached the FBI. CS1 said he/she had been selling marijuana in the Kansas City, Missouri area for numerous years and no longer wanted to be involved in that lifestyle. CS1 provided information detailing many Kansas City Missouri gang members and their criminal histories. The information CS1 provided spanned many years. To date, all of this information has been deemed reliable.

5. CS1 also provided information regarding his/her marijuana supplier, who operated out of the Seattle, Washington area. CS1 said he/she knew this individual as "JL" or "John Love," but believed his name was John Berard, hereinafter referred to as "Berard." CS1 reported that he/she has purchased marijuana from Berard off and on since 2002. CS1 estimated that he/she has purchased between 1200 and 1500 pounds of marijuana from Berard since 2002. The price per pound ranged from \$2,250 to \$3,700. The last load CS1 received from Berard before his/her cooperation was September 2009.

6. CS1 indicated Berard occupied at least two properties in Washington. One was described as a loft apartment located in downtown Seattle near the Puget Sound. CS1 described the second place as a rural property on acreage with a gate surrounding the premises. CS1 said he/she believed the rural property was approximately two hours away from Seattle, Washington and he/she thought it was located just outside of Olympia, Washington. CS1 said he/she saw coupons on the refrigerator for businesses with a 360 area code. CS1 further noted that Berard operated a marijuana grow from the basement of the residence on this location. CS1 saw large quantities of U.S. currency at this

1 location which he/she believed were drug proceeds.

2 **CS1 DESCRIBES THE ORGANIZATION'S DELIVERY METHOD**

3 7. CS1 indicated that he/she received marijuana from Berard via delivery, but
4 that Berard almost never delivered it himself. CS1 remembered one occasion late in 2007
5 in which Berard was present for a delivery. Other than that one occasion, Berard always
6 sent a driver on his behalf to deliver to CS1. CS1 described the marijuana transactions as
7 follows.

8 8. Berard called CS1, indicated he wanted to send a delivery to Kansas City,
9 provided an estimated marijuana weight amount to expect, and provided an estimated
10 delivery date. The delivery date was usually several days to one week away from the
11 initial call. As the estimated delivery date approached, Berard called CS1 with more
12 specific details about when the delivery would commence. On the delivery date, Berard
13 called CS1 and indicated the expected time for delivery. Right before the delivery took
14 place, Berard's driver called CS1 directly to indicate he was close to the delivery location.
15 Often Berard would call CS1 or the driver to confirm that everything was going as
16 planned. At the time of the delivery, Berard's driver arrived in a rental vehicle at CS1's
17 location with the marijuana. CS1 said the marijuana was often sealed and placed in
18 cardboard boxes. The boxes had labels which read "kitchen" or "bedroom" and other
19 common household room names to make it look like the boxes contained household
20 goods. CS1 accepted the marijuana and provided the driver with vacuum sealed U.S.
21 Currency, often in a duffle bag or briefcase. Berard often called CS1 during or after the
22 delivery to make sure everything went as planned.

23 9. CS1 believed Kansas City was one of multiple stops for Berard's driver
24 because he/she often saw additional boxes (like the ones he/she received containing
25 marijuana), duffle bags and or briefcases in the rental vehicle. When CS1 observed
26 additional boxes in the rental, he/she surmised that his/her location was one of the first
27 deliveries on the route. When CS1 observed duffle bags or briefcases and no additional
28 boxes in the rental, he/she surmised that his/her location was the last delivery on the

1 route. CS1 indicated there were some instances in which the driver would deliver the
2 marijuana and then return approximately one week later to pick up money on his return to
3 Seattle. Based on this information and on conversations CS1 had with the driver, CS1
4 believed the driver also made stops in either Chicago or St. Louis.

5 CURRENT ACTIVITY

6 10. On November 19, 2009, CS1 advised me that Berard had contacted him and
7 wanted to do another delivery to Kansas City on or about November 22, 2009. On
8 November 20, 2009, I located internet public-source residential records for a John Loren
9 Berard of Seattle, Washington. There were several addresses, but none were identified as
10 current, and none were for the locations we are seeking to search. The Seattle FBI
11 Division provided me with Berard's Washington driver's license photo. A copy was
12 shown to CS1 on November 19, 2009 and he/she positively identified the photo of John
13 Berard as his/her marijuana supplier from Seattle, Washington. CS1 also said he thought
14 Berard's birthday was June 11; records I located showed it as June 13. CS1 advised that
15 he/she owes Berard approximately \$100,000 and would have that ready to give to the
16 driver. CS1 indicated there had been several drivers over the years, but the same person
17 had been coming for the last several deliveries. CS1 said he/she knew this driver as Matt,
18 but did not know his last name, and described him as a white, heavy-set male in his 30s,
19 weighing approximately 225 pounds and standing approximately 6' 2" tall. CS1 was
20 planning to be out of town starting on November 23, 2009. I advised CS1 to ignore
21 Berard's calls until after he/she was out of town.

22 11. On November 23, 2009 at 12:16 a.m., CS1 forwarded me the following text
23 message he/she received from Berard's phone: "Hope ur ok. I'm ticked ur not answerin.
24 leaving early in the mornin." At 12:17 a.m., CS1 forwarded me the following text
25 message he/she received from Berard's phone: "Bro has been calling u. Im getting heated
26 up u should have that cell glued 2 u. 2day! We r there!" Later on the same day, CS1
27 advised me that he/she called Berard. CS1 explained that he/she was out of town and
28 would be back on or about November 28, 2009 to receive the delivery.

12. On November 26, 2009, CS1 contacted me and advised he/she spoke to Berard and he/she believed the delivery would commence on November 30, 2009. On November 28, 2009, CS1 forwarded me the following text message he/she received from Berard's phone: "K will c u in a day or 2 i think." On November 29, 2009, CS1 forwarded me the following text message he/she received from Berard's phone: "Looks like will b there tues. Nite. Ill let u know 2morrow nite!"

13. On December 1, 2009, CS1 forwarded me the following text message he/she received from Berard's phone: "Lotta traffic. C u 4 lunch maqana (manana)!"

14. On December 2, 2009, CS1 advised me that he/she had spoken with Berard and he believed Matt LNU would arrive to CS1's location at approximately 12:00 p.m.

15. On December 2, 2009 at approximately 11:00 a.m., I, along with other FBI agents and detectives from the Kansas City, Missouri, Police Department, initiated a surveillance in the vicinity of 849 East 109 Terrace, Kansas City, Missouri. Additionally, a Kansas City, Missouri, undercover police officer was with CS1 at CS1's residence. The following observations were made at the following noted times.

ARREST OF COURIER

16. During the surveillance, the undercover officer called and reported that Berard had just called CS1 and told CS1 that he was sending approximately 54 pounds of marijuana and that it was going to cost approximately \$162,000.

17. At approximately 1:13 p.m., a Toyota Sienna mini van, Alaska license plate FPJ-281 (registered to Hertz Rental, Anchorage, Alaska) pulled into the driveway at 849 East 109 Terrace. During this time, a Kansas City, Missouri, undercover police officer observed Matt LNU deliver approximately 54 pounds of a green leafy substance to CS1. The undercover officer also observed CS1 hand Matt LNU a briefcase containing approximately \$117,000 dollars.

18. At approximately 1:40 p.m., the Toyota mini van left the property located at 849 East 109 Terrace and headed north on Campbell Street.

19. At approximately 1:44 p.m., the Toyota mini van turned northwest bound

1 on Interstate 435.

2 20. At approximately 2:10 p.m., the Kansas City, Missouri, Police Department
3 conducted a traffic stop on the Toyota mini van and took the driver, the vehicle's sole
4 occupant, into custody. The driver was identified as Matthew David Olson, date of birth
5 7/4/1970. Olson is a white, heavy-set male, standing approximately 5' 10" and weighing
6 approximately 240 pounds.

7 21. At the scene of the vehicle stop, FBI Agents and police detectives recovered
8 \$180,950 in cash, several cellular telephones, and other personal effects from the vehicle.
9 At the same time, the undercover officer recovered the delivered packages. These
10 packages were not weighed, but appeared to be consistent with a weight of 54 pounds, as
11 Berard had promised, and contained a green leafy substance that later field-tested positive
12 for the presence of marijuana from the residence located at 849 East 109 Terrace, Kansas
13 City, Missouri.

14 COURIER'S INFORMATION

15 22. During an interview with Olson on the day of his arrest, Olson positively
16 identified a photo of John Berard, date of birth 6/13/1974, as the guy for whom he was
17 delivering marijuana and collecting cash payments. Olson indicated he had been
18 delivering what he believed was marijuana and picking up cash for Berard since
19 approximately August 2008. Olson estimated that he made approximately six trips from
20 August 2008 to the present. When asked about the last delivery, Olson said he drove his
21 personal truck to Berard's rural residence and Berard's mother drove Olson to Hertz car
22 rental, where he picked up the aforementioned Toyota Sienna rental van. Olson then
23 drove the van back to the rural property to pick up the marijuana. After picking up the
24 marijuana and placing it in the rental van, Olson headed for Kansas City. Olson said he
25 was supposed to deliver to the buyer in Kansas City before Thanksgiving, but the buyer
26 was not in town so Olson went on to deliver loads in Chicago and Milwaukee and then
27 came back to deliver in Kansas City on his return to Seattle. Olson also indicated that he
28 knew of two other drivers for Berard. One was his uncle Brian Olson, and another was a

1 Heather Darst. Olson had traveled with both to make deliveries, and thought they made
2 trips on their own. One of their trips was to New York. FBI Seattle records show that
3 Darst is suspected of trafficking in MDMA and is associated with the Banditos Outlaw
4 Motorcycle Gang. Bandito national officers were successfully prosecuted in Western
5 Washington three years ago for drug trafficking and firearm violations.

6 23. Both CI1 and Olson say they have seen marijuana in Berard's Seattle loft
7 apartment. CI1 saw it in May 2009 when Berard showed him several pounds, which was
8 his last time there. Olson said he has seen it in the apartment most times he was there,
9 including his last visit in April 2009.

10 24. Olson said that he was on his way back to Seattle at the time of his arrest
11 and that Berard was expecting Olson to be back in Seattle with the money no later than
12 Saturday, December 5. Olson said Berard occupied two residences and that he always
13 delivered the money to one of these addresses. Olson described the first residence as a
14 loft located in downtown Seattle near the intersection of Alaskan Way and Pike. Olson
15 described the second residence as a rural property located in Enumclaw, Washington.
16 Olson indicated the property is on five acres with a gate surrounding it. Olson further
17 noted that he has seen a marijuana grow in the basement of the residence and estimated
18 that there were approximately 30 "big" marijuana plants growing in it. Olson said he
19 never knows until the last minute where Berard will want Olson to deliver the money, but
20 it usually depends on where Berard happens to be when Olson is coming into town with
21 the money. Olson believes that Berard will likely want Olson to deliver the money to the
22 rural property since Olson left his personal vehicle there. Olson also said that location is
23 where he picked up the marijuana for this trip.

24 26. On December 4, 2009, Olson went with me and four other law enforcement
25 officers to Enumclaw, Washington. We drove to the property located at the corner of
26 286th Ave. S.E. and S.E. 371st St. in Enumclaw, Washington. Olson positively identified
27 the residence at this location as the location where Berard has provided Olson with
28 marijuana for Olson to deliver, and where Berard has accepted cash from Olson upon his

1 return trips. The residence on the property is a one story wooden structure single family
2 dwelling; the exterior is reddish brown. There is a detached two stall garage, and a
3 storage shed also on the property. Both of these structures are close to the residence. The
4 property is surrounded by a wooden and wire fence. There was no house number visible
5 to us when viewing the property.

6 27. On December 4, 2009, I and the other four law enforcement agents, and
7 Olson left Enumclaw and drove to Seattle. Olson directed us to the downtown loft
8 location. The address of the building 114 Alaskan Way South, Seattle, Washington. The
9 building is a multi-unit apartment complex. From the car, Olson pointed out an apartment
10 in the building located at 114 Alaskan Way South; specifically he pointed at a window
11 with plants, and said that was Berard's apartment. An law enforcement officer who
12 accompanied us went into the building at 114 Alaskan Way South, and went to the third
13 floor. He sketched an outline of the third floor of the building, and showed the sketch to
14 Olson. Olson identified apartment 302 as the apartment he has been in on numerous
15 occasions, where he has gone to meet Berard. Apartment 302 is located on the west side

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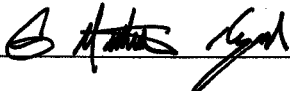
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1 of the apartment building on the third floor. The numbers 302 are clearly marked on the
2 outside of the door to the apartment.

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4 
5 G. MATTHEW KENYON, Special Agent
6 Federal Bureau of Investigation

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8 Subscribed to and Sworn to before me this 4 day of December, 2009.

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10 Based on the Complaint and Affidavit sworn to before me, and subscribed in my
11 presence, the Court hereby finds that there is probable cause to believe the Defendant
12 committed the offense set forth in the Complaint.

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15 
16 ~~BRIAN A. TSUCHIDA~~ Mary Alice Theiler
17 United States Magistrate Judge
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